IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1176 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

NATIONAL INSURANCE COMPANY LTD.
Versus
BABU NANJI SATHWARA AND OTHERS

==========

Appearance :
MS MEGHA JANI for the applicant.
MR MEHUL S SHAH for the opponents.

==========

CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 07/03/2006

ORAL JUDGMENT

By filing this Revision Application, the Revisionist, original respondent No. 3 of Motor Accident Claim Petition No. 151 of 1997 has

challenged order dated 29.12.1999 passed by MAC Tribunal, Kachchh at Bhuj by which the Review Application filed by the Revisionist was rejected by the Tribunal.

In MAC Petition No.151 of 1997, the Tribunal, by its order dated 30th April 1999, directed the opponents [including the present applicant]jointly and severally to deposit a sum of Rs.92,200-00 with running interest at 15% p.a. from the date of application till deposit. Since, according to the petitioner, there was an error in calculating the amount of compensation, the petitioner filed an application for review of the judgment. It was contended in the application that the annual income of the deceased was taken at Rs.14,400/-, and as per the calculation provided for under section 163.A of the Motor Vehicles Act, the amount payable would be Rs.1,15,200/- and deducting 1/3rd therefrom the amount payable would be Rs.76,800/- whereas by mistake it is mentioned as Rs.1,31,600/- and Rs.87,700/- respectively. It was, therefore, contended that there is a calculation mistake to the tune of Rs.10,900/-.

The Tribunal rejected the said Review Application on the ground that there is no mistake in calculation and that the mode of calculation is done as per the provisions of section 163.A which is enacted for providing interim compensation to needy persons. The Tribunal rejected the prayer of the revisionist for calculating the amount in a particular manner.

Learned advocate for the petitioner, Ms. Megha Jani, on instructions, states that the amount deposited by the petitioner Insurance

Company has s already been disbursed in favour of the original claimant.

Learned Advocate Mr. Shah for the original claimants submitted that there is no mistake in calculation and even if there is any mistake in calculation, the remedy available to the petitioner was to file an appeal.

I have gone through the documents available in the compilation of this Revision Application. I have also heard the learned advocates appearing in this matter. Considering the order passed by the Tribunal in the Revision Application and considering the fact that the original claimants have already withdrawn the amount, this Court, in its limited jurisdiction under section 115, CPC , would not like to interfere with the order passed by the learned Tribunal as it cannot be said that there is any jurisdictional error or that the Tribunal exceeded its jurisdiction in passing the impugned the order. It is, however, clarified that the reasonings given by the Tribunal may not be treated as a precedent for calculation in other matters.

This Revision Application stands rejected with the aforesaid observations. Rule is discharged. No order as to costs.

[P. B. MAJMUDAR, J.]

mathew